

**REMARKS****INTRODUCTION:**

Claims 1-42 are pending and under consideration.

ACCEPTABILITY OF THE DRAWINGS:

In the Office Action on page 1, box 9, the Examiner does not object to the amendment to FIG. 3 submitted on March 21, 2005. However, since the Examiner has not maintained the objection under 37 CFR 1.84(p) provided in the Office Action mailed December 21, 2004, it is assumed that the drawing is acceptable or that the objection has otherwise been satisfied. If this assumption is in error, it is respectfully requested that a new Office Action be mailed detailing such objection.

REJECTION UNDER 35 U.S.C. §102:

In the Office Action at pages 2-5, the Examiner rejects claims 37-41 under 35 U.S.C. §102 in view of FIGs. 1 and 2 of the instant application (hereinafter "the Other Device"). The rejection is respectfully traversed and reconsideration is requested. On page 3 of the Office Action, the Examiner asserts that the Other Device shows a sub beam having an optical aberration not disposed in line and incident off of the common track. By way of review, the Other Device discloses a main beam Bm and two sub beams Bs1, Bs2. The two sub beams Bs1, Bs2 are 1/2 track off of the main beam Bm. (Paragraph 0005, FIG. 1 of the Other Device). However, there is no disclosure or suggestion of an aberration for either of the two sub beams Bs1, Bs2, or of a placement for such an aberration relative to the track and the sub beams Bs1, Bs2. As such, the Other Device does not disclose or suggest, among other features, that "the sub-beam further comprises an optical aberration not disposed in the line and incident off of the common track" as recited in claim 37.

On page 4 of the Office Action, the Examiner clarifies that paragraph 0002 of the instant application includes in the Other Device an optical aberration in the sub beam. As a point of clarification, paragraph 0002 does not indicate that the Other Device includes the features of the present invention. Specifically, paragraph 0002 describes that "[t]he invention relates to an apparatus to generate a seek direction detecting signal for an optical pickup to determine the relative position of a center of an optical spot focused on an optical disk with respect to a center of a disk track in a RAM-type optical disk having a land/groove structure, and more particularly, to an apparatus to generate a seek direction detecting signal for an optical pickup using a main

beam and a sub-beam having a predetermined aberration in a radial direction."

In contrast, the description of the Other Device begins at paragraph 0003 under the subheading of Description of the Related Art. There is no suggestion in paragraph 0002 or in the paragraphs within the Description of the Related Art that the features described in paragraph 0002 are included in the Other Device shown in FIG. 2 as set forth in the Office Action.

Further, paragraph 0002 is included under a subheading of Field of the Invention, which relates to the field of art of the invention. While the subheading of the Field of the Invention is under the heading of Background of the Invention, this heading and subheading structure does not necessarily include the disclosure in paragraph 0002 as being prior art or included in the Other Device. Instead, the heading and subheading structure is consistent with the recommended arrangement of the specification outlined in MPEP 608.01(a), MPEP 608.01(c), and 37 CFR 1.77. As set forth in MPEP 608.01(c):

The Background of the Invention ordinarily comprises two parts:

(1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions. The statement should be directed to the subject matter of the claimed invention.

(2) Description of the related art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A paragraph(s) describing to the extent practical the state of the prior art or other information disclosed known to the applicant, including references to specific prior art or other information where appropriate. Where applicable, the problems involved in the prior art or other information disclosed which are solved by the applicant's invention should be indicated.

It is respectfully submitted that the applicants' adoption of this suggested arrangement further does not work as an unequivocal admission that paragraph 0002 is within the prior art as defined in 35 U.S.C. §§102 and/or 103. Since the Examiner does not rely on the Other Device as disclosing a feature of "the sub-beam further comprises an optical aberration not disposed in the line and incident off of the common track" as recited in claim 37 without the inclusion of paragraph 0002, it is respectfully requested that the Examiner reconsider and withdraw the rejection of claim 37.

For at least similar reasons, it is respectfully submitted that the Other Device does not disclose or suggest, among other features, "a light dividing unit to divide the light beam into a main beam to be formed on a first track of the optical disk and a sub-beam to be formed on the first track of the optical disk, the sub-beam comprising a spot focusing on the first track without being focused on a second track disposed radially apart from the first track and an optical aberration that is focused on at least the second track on the optical disk" as recited in claim 40.

On page 3 of the Office Action, the Examiner asserts that the Other Device discloses that the track cross signal is generated without the reflected main beam as does the claimed invention as recited in claim 39. However, as described in paragraph 0008 of the instant application, the track cross signal (TCS) of the Other Device "uses a difference signal $S_{1d} - S_{2d}$ of push-pull signals S_{1d} and S_{2d} respectively output from the first and second optical sub-detectors 2b and 2c, and the push-pull signal M_d ." Since the push-pull signal M_d is based upon the output of the main optical detector 2a, which receive the main beam 2a as disclosed in paragraph 0006, the Other Device uses the main beam 2a. Therefore, it is respectfully submitted that the combination does not disclose or suggest, among other features, that "the track cross signal is generated without the reflected main beam" as recited in claim 39.

Claims 38 and 41 are deemed patentable due at least to their depending from corresponding claims 37 and 40.

STATUS OF CLAIMS NOT REJECTED IN OFFICE ACTION

On page 5 of the Office Action, the Examiner states that claims 1-36 and 42 are allowed, which is consistent with the Examiner's withdrawal of the rejections under 35 U.S.C. §112.

CONCLUSION:

In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot. And further, it is respectfully submitted that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited. If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited by the Examiner contacting the undersigned attorney for a telephone interview to discuss resolution of such issues.

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If there are any additional fees associated with the filing of this Response, please charge the same to our Deposit Account No. 503333.

Respectfully submitted,

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